

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JANNA MUSHFIG,

Plaintiff,

CIV. S-05-0073 LKK PAN

v.

JO ANNE B. BARNHART,
Commissioner of Social
Security,

Findings and Recommendation

Defendant.

—oOo—

On January 12, 2005, plaintiff acting pro se filed a complaint seeking review of a final decision of the Commissioner of Social Security denying plaintiff's application for supplemental security income benefits. On February 7, 2005, plaintiff's request to proceed in forma pauperis was granted and the United States Marshal was directed to serve process pursuant to plaintiff's instructions. There is nothing in the file to suggest that plaintiff has served process upon defendant in this

1 action or provided instructions for service of process to the
2 United States Marshal.

3 On July 21, 2005, I ordered plaintiff to show cause in
4 writing within 11 days why this action should not be dismissed.
5 Plaintiff has not responded to the court's order.

6 Fed. R. Civ. P. 41(b) allows dismissal for "failure of
7 the plaintiff to prosecute or to comply with these rules or any
8 order of court . . ." A federal district court has the inherent
9 power to dismiss a case sua sponte under Rule 41(b). Link v.
10 Wabash R. Co., 370 U.S. 626, 630-32 (1962). Dismissal is also
11 authorized by Fed. R. Civ. P. 16(f) (dismissal appropriate "[i]f
12 a party . . . fails to obey a scheduling order or pretrial
13 order"); and E. D. Cal. L. R. 11-110 ("Failure of . . . a party
14 to comply with these Rules or with any order of the Court may be
15 grounds for imposition by the Court of any and all sanctions
16 authorized by statute or Rule or within the inherent power of the
17 court").

18 Accordingly, I recommend that this action be dismissed.

19 These findings and recommendations are submitted to the
20 Honorable Lawrence K. Karton, United States Senior District
21 Judge. 28 U.S.C. § 636(b)(1). Written objections may be filed
22 within ten days after being served with these findings and
23 recommendations. The document should be captioned "Objections to
24 Magistrate Judge's Findings and Recommendations." The failure to
25 file objections within the specified time may waive the right to
26 ///

1 appeal the District Court's order. Martinez v. Ylst, 951 F.2d
2 1153 (9th Cir. 1991).

3 Dated: October 3, 2005.

4 /s/ Peter A. Nowinski

5 PETER A. NOWINSKI

6 Magistrate Judge
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